

# **NATIONAL MARINE FISHERIES SERVICE**



## **COOPERATIVE ENFORCEMENT PROGRAM**

# **PERFORMANCE REVIEW GUIDE**

## NOTICE

**ALTHOUGH SIGNIFICANT GUIDANCE WAS TAKEN FROM PUBLISHED GOVERNMENT MATERIALS IN PREPARING THIS GUIDANCE, THE POLICY AND PROCEDURE SET FORTH IN THIS GUIDANCE IS FOR THE INTERNAL USE OF THE NATIONAL MARINE FISHERIES, OFFICE OF LAW ENFORCEMENT.**

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## INTRODUCTION

This guide establishes and sets forth the performance review component of the Cooperative Enforcement Program (CEP). Its origins can be found in a March 2003 report and recommendations of the Department of Commerce, Office of the Inspector General (OIG). In a report titled *NMFS Should Take a Number of Actions to Strengthen Fisheries Enforcement*, Final Inspection Report No. IPE-15154, March 2003, the OIG said--“NMFS should develop guidance for and conduct periodic, on-site program reviews to measure and verify internal program controls and program accomplishments.” In addition, to this broad, sweeping program review, the OIG recommended more frequent, less comprehensive monitoring by OLE Special Agents in Charge—“In an ongoing monitoring program, special agents in charge would be responsible for periodically preparing and submitting a written report to headquarters on state performance.”

In September, 2008, the OIG issued Final Report No. IPE-19050-1, titled, “*NOAA’s Management of the Joint Enforcement Agreement Program Needs to be Strengthened.*” One of the recommendations of that Report provides, “The National Marine Fisheries Service should develop a strategy for reviewing partner programs that prioritizes the order in which to assess them, verifies and evaluates a program’s internal controls and accomplishments, and reports results to JEA officials in a timely manner.” This Manual is intended to implement those recommendations, as well.

This guide is intended to be responsive to those recommendations. The guidance and policy set forth herein is intended to be the formal policy of the Office of Law Enforcement (OLE) and as such the requirements herein are intended to have the force of official policy.

Questions should be addressed to National Cooperative Enforcement Program Manager, OLE Headquarters, 8484 Georgia Avenue, Silver Spring, Maryland 20910.

## DEFINITIONS AND REFERENCES

### DEFINITIONS

**CEP:** Cooperative Enforcement Program.

**Division CEP Coordinator:** Individual assigned CEP responsibilities in divisional offices. May also be known as JEA Coordinator.

**Division CEP Manager:** A management level OLE employee assigned to manage the CEP at the division level.

**Director:** Director, National Marine Fisheries OLE, Office for Law Enforcement.

**Engagement Letter.** The official notification of a pending performance review from the performance reviewer to the state or territory, including a request for information.

**Entrance Conference.** The meeting involving the performance reviewer, the SAC, the state or territory, and others, if needed, that officially begins the performance review fieldwork.

**Exit Conference.** The optional meeting at the conclusion of the fieldwork, involving the performance reviewer, the SAC, the state or territory, and others, to review the preliminary results of the performance review.

**Fieldwork.** Work that the performance reviewer performs at locations other than the administrative offices of an agency.

**Final Performance Review Report.** The performance reviewer's report. It includes the performance reviewer's findings and recommendations, comments received on any draft performance review report, and the performance reviewer's response.

**Internal Controls.** Integral components of an agency's management intended to promote a better performance. They include plans, methods, and procedures used to meet performance and financial goals within a government agency.

**JEA:** Joint Enforcement Agreement

**National Cooperative Enforcement Program Manager:** Special Agent whose duties include oversight and management of Cooperative Enforcement Program.

**Office of Inspector General (OIG).** The Department of the Commerce agency responsible for conducting, supervising, and coordinating reviews, evaluations,

investigations, and other activities relating to programs and operations of the Department of Commerce and its units.

**OLE :** Office of Law Enforcement

**Agency or Partner Agency:** A state or territorial marine conservation law enforcement agency who has a valid Cooperative Enforcement Agreement and JEA with OLE. May also be referred to as “agency.”

**Performance Review:** Examination of relevant records, reports, internal controls, policies, and practices, equipment, and activities of states or territories who receive funds through the Cooperative Enforcement Program by OLE, the Department of the Commerce, OIG, other Federal agencies, or independent public accountants for compliance with applicable Acts, regulations, accounting principles, and the provisions and conditions of the CEP and JEA.

**Performance reviewer.** An OLE employee assigned duties associated with a performance review.

**Performance Review Finding.** Questioned costs, compliance issues, and other matters identified in the review report.

**Performance Review Guide.** A document that provides the information, background, and general guidelines necessary to conduct performance reviews. It will be available to all parties.

**Performance Review Recommendation.** Actions proposed by the reviewer to address performance review findings.

**Planning.** A dynamic process involving the performance reviewer, the SAC, and states or territories, that continues throughout the performance review and includes identifying the scope of the performance review, the performance review schedule and milestones, who will conduct the performance review, points of contact, logistical requirements, issues of potential concern, and the detailed steps for conducting the performance review.

**Program-specific review:** A structured review of the CEP, including the JEA.

**Review:** Unless otherwise apparent from its context, “review” means a performance review.

**SAC:** Special Agent in Charge

**State or Territory.** The state or territorial entity to which CEP/JEA funds have been distributed and who is accountable for use of the Federal funds provided.

## REFERENCES

- A. 43 CFR 12, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- B. Government Reviewing Standards (Yellow Book), July 2003, GAO-03-673G
- C. Standards for Internal Control in the Federal Government, November 1999, GA)/AIMD-00-21.3.1
- D. Office of Management and Budget (OMB) Circular A-50, Review Followup.
- E. OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments.
- F. OMB Circular A-133, Reviews of States, Local Governments, and Non-Profit Agencies.
- G. OMB Circular A-102, Grants and Cooperative Agreements with State and Local Governments.
- H. Quality Standards for Inspections, January 2005, President's Council on Integrity and Efficiency.
- I. OMB Circular A-123, Management's Responsibility for Internal Control



## **PART ONE: ESTABLISHMENT OF PROCESS**

### **PURPOSE**

This guidance establishes the scope, activities, execution, and framework, including the policy, procedure, practice, and responsibilities for conducting performance reviews of the CEP. It further specifies the roles and responsibilities of individuals having a role in the CEP, as well as the criteria for selecting which agency to review.

### **APPLICATION**

This guide applies to performance reviews of relevant records, reports, internal controls, policies, and practices, equipment, and activities of states or territories who receive funds through the Cooperative Enforcement Program.

### **POLICY**

It is the policy of OLE that a program-specific performance review of the records, reports, internal controls, policies, and practices, equipment, and activities of any state or territorial agency that receives CEP funds will be conducted. OLE will provide adequate oversight and financial resources to ensure timely completion of performance reviews. OLE will cooperate and coordinate fully with States and territories, and the Office of Inspector General (OIG), as appropriate.

### **GOALS**

The goals of CEP performance review are to:

- Promote economy, efficiency, and effectiveness in administration of CEP and operations.
- Measure and verify internal program controls and program accomplishments.
- Ensure that reporting of activity is reliable.
- Aid in deterring and detecting fraud and abuse in programs and operations.
- Assess financial integrity, accountability, and controls of the CEP.
- Monitor compliance with applicable the JEA, Federal laws, rules, and regulations.
- Identify obstacles to efficient and effective implementation and accomplishment of the CEP's goals and objectives.
- Provide timely feedback to partner agencies.

## **OBJECTIVES**

The objectives of a performance review are:

1. Determine whether performance goals were met;
2. Determine whether non-personnel expenses, purchases, etc., were properly documented;
3. Determine whether JEA work was accurately and completely recorded and reported;
4. Determine whether the agency's internal controls related to the CEP are adequate.
5. Determine whether there are obstacles to the effective and efficient implementation of the JEA

## **ROLES AND RESPONSIBILITIES**

### **Director**

- Oversee the CEP and the Performance Review process
- Review performance review report and issue final report
- Meet with National CEP Coordinator and SAC, as needed, to discuss conclusions and recommendations

### **Assistant Director**

- Assume supervisory responsibility for the CEP and Performance Review process
- Assist in the development of policy and procedure
- Participate in the review and approval of performance review activity and reporting

### **Special Agents in Charge**

- Maintain JEA records and reports
- Conduct periodic program reviews
- Meet with state/territorial agencies periodically to verify progress
- Assign adequate personnel to assist in performance review
- Meet with reviewers and discuss review conclusions and recommendations

### **National CEP Coordinator**

- Manage CEP for OLE
- Ensure consistent interpretation and application of rules, regulations, and laws concerning the Cooperative Enforcement Performance Review Program.
- Establish the national performance review schedule
- Coordinate performance reviews and provide for an independent performance review of states and territories.
- Serve as a point of contact for OLE staff.

- Evaluate the Cooperative Enforcement Performance Review Program for efficiency, timeliness, and effectiveness before initiating each national review cycle.
- Require that reviews are conducted in accordance with this policy, applicable regulations and laws.
- Establish the objectives of the performance review of the Cooperative Enforcement Program.
- Develop and maintain the Performance Review Guide.
- Prepare performance review protocol and procedure
- Schedule performance reviews consistent with this procedure
- Supervise performance reviews
- Ensure that performance review report is prepared
- Provide copy of performance review report and any recommendations to Director, OLE, SAC, and state/territorial agency reviewed
- Meet with and discuss conclusions with Director, OLE and SAC.
- Conduct follow up review when warranted

#### **Division CEP Manager**

- Oversee Division CEP/JEA activities
- Supervise Division CEP Coordinator
- Plan, supervise, and assist with CEP training for OLE, partner agencies, and any other designated individual
- Plan, supervise, review, report and assist, as needed, in the On-Going Monitoring Program and Performance Reviews
- Coordinate with HQ personnel, including the Assistant Director and National CEP Manager on CEP matters as appropriate.
- Plan and attend meetings with state partners on CEP matters, including preparation and development of JEA's.
- Keep SAC informed of CEP issues
- Communicate with state partners on CEP issues
- Other duties as assigned by HQ or SAC

#### **CEP/JEA Coordinator**

- Perform duties as assigned by SAC
- Maintain JEA records and reports
- Conduct periodic informal record reviews
- Meet with state/territorial agencies periodically to verify progress
- Assist National JEA Coordinator as needed

#### **State/Territory Representatives**

- Maintain JEA records and reports
- Meet with regional SAC periodically to verify progress
- Assign adequate personnel to assist in performance review
- Provide any reasonable assistance to accomplish performance review

- Meet with SAC to discuss conclusions and recommendations
- Take any reasonable corrective action recommended
- Report completion of corrective action

## REVIEW PHASES

1. **Planning**—Gathering background information, such as CEA, JEA, Ops Plan, Financial Plan, monthly, quarterly and yearly reports, purchase orders, etc., In-Office Review, Preliminary Survey
2. **Preparation**—Preparing a performance review plan
3. **Study and Research**—Reviewing all relevant documents gathered in preparation for review.
4. **Conducting the Review**—Conducting full performance review, involving detailed fact-finding, research and analysis of the areas under review
5. **Preparation of Reporting**—Documenting results of review, to include appropriate drafts and final reports
6. **Follow-up**—Ensuring that states/territories are informed of all findings and corrective action initiated if warranted.

## TYPES OF PERFORMANCE REVIEWS

There are three types of performance reviews—For Cause, Agency Priority, and Regular. The selection criteria for each are explained below.

1. **“For Cause”** reviews are specially designated performance reviews based upon a unique situation, demonstrated problem, or deficiency calling for a performance review.
2. An **“Agency Priority”** review is a review where OLE has a particular interest in the effectiveness of a particular agency or a particular program or activity..
3. **“Regular”** performance reviews are routinely scheduled reviews.

## SCOPE OF THE REVIEW

The scope of the performance review includes every aspect of the JEA, to include the financial and program elements, activities of the agency, and internal agency controls related to the CEP. The performance reviewer, who should exercise due professional care, sound judgment, and consideration of the nature and character of the engagement, determines the scope of the review beyond those elements.

## **PART TWO: MANAGEMENT CONTROL PLAN**

### **GENERALLY**

The basic framework of the performance review program is a combination of process-based and risk-based approaches. In the process-based approach, routine processes of the CEP are examined. For example, a process-based approach evaluates and documents performance measures that are articulated in the JEA. In the risk-based approach, the review process focuses on the greatest material risks to the desired outcomes of the CEP. Normally those risks are managed by effective internal controls, such as clearly articulated and published policies and procedures which minimize obstacles and problems that tend to prevent an agency from accomplishing its desired objectives in a program.

This performance review program is founded on the principle that OLE must manage risks to the CEP by adopting adequate internal controls to manage those risks at the Headquarters level and assessing internal controls put in place by our partners to ensure efficiency and effectiveness in the execution of our joint enforcement agreements. To accomplish the first goal, a CEP Manual was developed and is consistently updated and published for OLE staff and CEP partners to support their duties and responsibilities to the CEP. That Manual helps to insure that OLE has the right internal controls to make sure those risks to the CEP that can be controlled at the Headquarters level.

This Performance Review guide also contemplates external risks to the success of the CEP by recognizing that the internal controls established by CEP partners are vital to the success of the CEP. To that end, OLE encourages its partners to adopt internal controls to manage the CEP. And, to assess their progress and success in that regard, this Guide is designed to examine and assess those internal controls.

The result of a fully executed performance review, then, will consider the process-based elements of a JEA such as whether the performance measures of the JEA were met, as well as whether the agency's internal controls are such that the risks to the CEP are managed at the agency level.

### **REVIEW CYCLE**

The approach to performance reviews is a single year, rotational basis. The OLE will review each partner agency no less than once during a 4-year period. The Director, OLE, retains discretion to establish a different review schedule.

## IDENTIFYING AGREEMENT FOR REVIEW

Any closed JEA may be reviewed. However, the performance review normally covers a 1-year period, or in some instances a 2 or 3-year period, and is normally the latest, completed JEA-year period, but may be expanded for good cause. Performance reviews are subject to the availability of personnel and resources.

The review period applies to the performance review period itself and does not eliminate OLE's responsibilities for general oversight of the Cooperative Enforcement Program outside of that timeframe. The OLE may use previous performance reviews or other information from outside the review period as a reference to improve the effectiveness and efficiency of the performance review.

*Only one JEA will be the subject of a performance review at any one time, unless specifically approved by the Director, OLE.*

## SELECTION CRITERIA

The selection of which agency will be reviewed and what order is driven by the objectives of the performance review program. One objective is to ensure that there is adequate supervision and review of the JEA and that the agency is complying with all requirements. Another objective is to measure the effectiveness of the JEA as it relates to the priorities determined by OLE. And lastly, the performance review program is intended to ensure that normal, routine reviews occur on a regular basis, unless circumstances dictate otherwise.

This section establishes criteria for conducting "for cause" performance reviews, agency priority performance reviews and regular performance reviews.

### Criteria for "For Cause" Performance Reviews

A SAC may request a performance review of a partner agency "for cause." The term "for cause" means any circumstance which in the opinion of the SAC warrants a performance review outside the normal scheduling process based upon suspected, anticipated or documented problems, or deficiencies in reporting, activity, etc.

In addition, OLE HQ managers may, in consultation with the SAC, schedule a "for cause" performance review for any reason.

Where a "for cause" review is requested, scheduling that review becomes a priority and the agency to be reviewed is scheduled for the next available date.

### Criteria for Agency Priority Reviews.

A SAC may request an Agency Priority review to evaluate the effectiveness of a particular agency's performance in a priority fishery or for a particular program.

In addition, OLE HQ managers may, in consultation with the SAC, schedule an "agency priority" review.

Scheduling of an agency priority review takes precedence over a regular performance review, but must yield to a for cause review.

### Criteria for Regular Performance Reviews.

**Step 1.** Identify and select the last year of completed JEA activity.

**Step 2.** Divide the agencies receiving funds that year into 3 equal groups, or as near to equal as possible. Group A consists of the agencies receiving the highest values of funding with the highest within that category being "1" and the lowest in that category being "9." Group B consists of the agencies receiving the middle range of funding, and Group C consists of the agencies receiving the lowest range of funding, each ranked from 1 through 9. The example below is the 2006 JEA.

	A	B	C
1	Louisiana	Oregon	Connecticut
2	Alaska	New Jersey	Georgia
3	California	Texas	Delaware
4	Washington	South Carolina	Hawaii
5	Virginia	Massachusetts	American Samoa
6	Maine	Alabama	Guam
7	Florida	Maryland	CNMI
8	Rhode Island	New Hampshire	<del>Puerto Rico</del>
9	Mississippi	New York	<del>Virgin Islands</del>

***NOTE: Where an agency has not received any funds during that year, list the agency at the end of Group C and strike through the name of the State. No performance review need be conducted of agency that has not received funds during the JEA-year.***

**Step 3.** Schedule performance reviews by selecting the highest listed agency in Group A first. Schedule the highest listed agency in Group B next, and the highest listed agency in Group C last.

**NOTE:** Where weather conditions, seasonal problems, or conditions that are considered dangerous are a factor in the scheduling of a performance review, OLE may substitute the next partner agency in the Group. For example, if Alaska is the first to be scheduled and the first available date for such a review falls within a time period when extreme weather conditions exist, OLE may alter the schedule to accommodate those conditions. OLE should select the next agency in the Group in place of the unavailable agency. The state skipped should be rescheduled as soon as weather conditions improve to the point where the review may be performed safely.

**Step 4.** Drop down to the next row and schedule the next agency in Group A, B and C, respectively. Continue in this manner until list is exhausted or a new list is started.

NOTE: Alternate methods for selecting from the list may also be used. For example, the Director may decide to begin the selection process from the bottom of the grid instead of the top in any given year.



## **PART THREE: PLANNING**

### **IN-OFFICE REVIEW**

#### **Purpose**

The in-office review should provide the reviewer with enough insight about the subject to enable reasonably intelligent questions to be asked in the entrance conference. It should provide general familiarity with where the activity stands in the Agency hierarchy, its dollar significance and what it is supposed to be doing in the way of operations.

#### **Source of Information**

The following sources of information are available for the in-office review:

- Applicable CEA, JEA, Operations Plan, financial plan, enforcement plans, annual and monthly reports
- Material on the Agency--division of duties and responsibilities, number of employees, job descriptions, agency chart, nature and location of physical assets and accounting records
- Financial Information--cost of operations, current year/prior year and budget/actual analysis, cash flows and cost accounting data
- Internal Controls, Policies & Operating Procedures Manuals
- Prior period internal and external review reports
- Management information and performance reports

Since this is only a familiarization process, not more than one to two days should be spent reviewing such information.

### **PRELIMINARY SURVEY**

The purpose of the preliminary survey is to identify review objectives and evaluate internal controls. The fieldwork portion of the review is used to test identified internal controls and to quantify weaknesses when necessary. Preliminary surveys are to be accomplished as a part of the planning process for the review. The time spent on the preliminary survey depends upon the complexity of the subject matter under review.

The preliminary survey, if done correctly, will provide a clear picture of operations. Internal control points such as: division of duties, reconciliations and review procedures, will also be noted. However, testing is essential to achieve review objectives.

Findings will arise during the preliminary survey portion of the work, but testing is needed and required in order to quantify known problems and discover ones that are not so apparent.

In the preliminary survey, the reviewer gets to know the people, gains an understanding of the operations, identifies controls and risks and develops the review's objectives. As a result, a more intelligent, effective and efficient review will be performed.

## **PRELIMINARY TASKS**

1. Identify agency for review.
2. Gather materials for review.
3. Identify members of review team and supply materials for review
4. Send initial letter from Director announcing review and dates of review to agency. See Sample, Appendix, p. 45.
5. Send follow-up letter to appropriate agency contact with copy of review plan. See Sample, Appendix, p. 46.
6. Conduct an in-house review of any pertinent materials gathered.
7. Plan travel and accommodations
8. Prepare a Performance Review Plan. Share with review team and agency.
9. Plan and schedule a preliminary meeting with the review team.
10. If appropriate, schedule an entrance conference with the agency. Obtain the name of the departmental contact person.
11. Secure a place from which to conduct the field work portion of the review.
12. Send agency self-assessment. A sample is provided in the appendix, p. 48.

## **PART FOUR: PERFORMANCE REVIEW PLAN**

The performance review supervisor should prepare a Performance Review Plan for each review. A sample Performance Review Plan is provided in the attachments.

### **GENERAL PLANNING PRINCIPLES**

- Allow sufficient time consistent with geographical needs, usually four to five days, for travel and inspections.
- Minimize disruption of operations to NMFS/OLE and state.
- Allow 30-45 days advanced notice of visit.
- Preparation for the inspection is important.
- A copy of the review plan should be provided to other reviewers and the agency to be reviewed.

### **ASSIGNMENT OF UNIQUE NUMBER.**

The Plan should have a reference to a unique number to identify and to distinguish the Performance Review from others. The identifying number should first include the year reference using four digits. i.e. "2009." This should be followed by a sequential number assigned to the review in the order they are performed. And, finally, the two-letter reference for the state or territory should be added. For example, if the first review of 2009 is Maryland, the review would be identified as "2009-01-MD."

### **ELEMENTS**

**Schedule** -The Plan should include the beginning and ending dates of the scheduled performance review.

**Reviewers**--The Plan should identify those participating in the performance review, by name, and may include the following:

- National Cooperative Enforcement Program Manager
- Division CEP Manager
- Division JEA Coordinator
- Consultants, as needed
- Others, as appropriate

**Components**—The review plan should include a description of the sorts of things that will be reviewed, such as:

- A. Performance Goals
- B. Purchases
- C. Accuracy of Reporting
- D. Internal Controls/Policy/Procedures
- E. Field Inspections/Site Visits

**Responsibilities**—The plan should indicate what each reviewer is responsible to accomplish during the review.

**Background**—The Plan should provide a general overview of the agency, to include a description of their authorized strength, number of sworn and unsworn positions, number of vessels and aircraft, and the area they cover.

**Statistics**—The Plan should list the amounts the agency has received in each successive JEA.

**Summary of JEA Being Reviewed**—The Plan should state the year of the JEA that is being reviewed. In addition, it should set forth the date the JEA was executed, the term of the agreement, and the total funding. Include a brief description of any amendments. Finally, add the date on which the JEA obligations were satisfied.

In separate paragraphs, set forth the total obligation for direct operations and a description of any external expenses, such as equipment purchases. For example, the Plan should recite what direct operations obligations were set forth in the JEA as well as the purchases that were planned.

The Plan should also include a description of other terms of the JEA, such as contacts, education and outreach, and performance measures.

**Planning**—The Plan may also include a checklist that sets forth a step-by-step process for planning the review.

**Review Scope**—The Plan should provide a narrative description of the scope of the review and should state what period of time is covered by the review. For example, “The review period covers personnel and purchasing activity that occurred from August 26, 2004 to September 30, 2006. Source documentation will be obtained from files maintained in the CDFG. Original records as well as copies, including microfiche, will be used as evidence and verified through physical examination.”

**Review Objectives**--Objectives should have top-level management significance and fit within the overall scope of the review. Every review procedure should help answer one of the objectives and every objective should be addressed in the procedures or steps. Continually think of the report and devise steps to uncover findings you would be proud to discuss with the Director, OLE. Question yourself: "If errors are found in this test, what would the report say and would top management be interested?" In order to make

your goal perfectly clear, preface major steps with: to test whether . . .; or, to determine that . . .

This review will be conducted in accordance with the OLE Performance Review Guide.

The objectives of this review are to:

1. Determine whether performance goals were met;
2. Determine whether non-personnel expenses, purchases, etc., were properly documented;
3. Determine whether JEA work was accurately and completely recorded and reported;
4. Determine whether the agency's internal controls related to the CEP are adequate.
5. Determine whether there are obstacles to the effective and efficient implementation of the JEA

**Projected Itinerary and Schedule**—The review plan should have a tentative itinerary and schedule.

**After Action.**—The Plan should include the schedule for after action mileposts. For example, the Plan should include a time frame for completing the draft report. The plan should also provide the time frames for agency review of the draft report and when a final report should be issued.

## **PART FIVE: PERFORMANCE REVIEW WORK FILE**

The Performance Review Work File is intended to place all essential documents in one location for easy reference during the performance review. The Work File consists of three components—a six-tab file folder, five individual work paper file folders for each of the objectives listed above, and a work flow reminder.

### **SIX-TAB FOLDER**

A six-tab file folder is used to collect the essential documents necessary for the review. A label is placed on the front of the folder and has the name of the OLE Division in which the review occurs and the name of the agency being reviewed

#### **Tab One—CORRESPONDENCE**

Copies of all relevant correspondence should be placed under this tab. This includes engagement letters, pre-review correspondence, emails, post-review letters, transmittal letters, and a copy of the final transmittal letter to the agency.

#### **Tab Two—JEA/OPS PLAN**

A copy of the JEA/OPS PLAN/FINANCIAL PLAN being reviewed is placed under this tab.

#### **Tab Three--REPORTING**

Copies of monthly reporting for the period covered by the JEA and any yearly report (for multiple-year JEA's) and the final report are placed under this tab.

#### **Tab Four—REVIEW PLAN**

A copy of the Performance Review Plan for the agency is placed under this tab.

#### **Tab Five—AGENCY BACKGROUND**

Information about the agency is collected and placed under this tab. This may include information contained in the OLE files, the JEA application package, internet sites, and published materials. The intent is to give the reviewer information about the general background of the agency.

## **Tab Six—TRAVEL DOCUMENTS**

This section is intended as a repository for all essential travel documents, such as official travel orders, airline, hotel, and rental car information. It may include maps to important review sites.

### **WORK PAPER FOLDERS**

The reviewer should prepare five separate file folders to collect work papers collected during the review. Each file should be labeled with the particular goal that the file will collect:

- \* Performance Goals;
- \* Non-personnel Expenses, Purchases, etc.;
- \* Accuracy of Reporting;
- \* Internal Controls; and
- \* Obstacles to Implementation

As papers are collected, copies should be placed into the respective folder for further examination and analysis at a later date.

### **WORK FLOW REMINDER**

The work flow reminder is a listing of important dates that have an effect on the final performance review report. See Appendix, p. 62.

The work flow reminder should be a document that lists

- \* the dates of the performance review
- \* date the first draft is due, usually 14 days after completion
- \* date the final draft report is due to Director, usually 30 days after completion, but not more than 45 days.
- \* date the final draft report is due to the Agency, usually 45 days, but not more than 60 days, after completion
- \* date the agency must return comments to OLE, usually 60 days, but not more than 90 days, following completion
- \* date the final report is due, usually 90 days, but not more than 120 days, following completion

### **WORK FILE RETENTION**

All three components of the Work File are retained by OLE and are used to prepare draft and final reports of the performance reviews.

## **PART SIX: PROCESS REVIEW**

The first component of the Performance Review is process review. Process review is the examination and documentation, by observation, inquiry, collection and testing, the accuracy of the agency's reports and records that provide answers to the first three objectives of the performance review:

1. whether performance goals were met;
2. whether non-personnel expenses, purchases, etc., were properly documented; and
3. whether JEA work was accurately and completely recorded and reported

The other two objectives of the performance review--whether the agency's internal controls related to the CEP are adequate and whether there are obstacles to the effective and efficient implementation of the JEA—are addressed elsewhere in this Guide.

### **PERFORMANCE GOALS**

In order to determine whether an agency has met its performance goals, the reviewer must determine whether the agency has met its goals in the following areas:

- Did the agency complete the required number of hours?
- Did the agency record contacts as required?
- Were monthly and end of year reports submitted as required?

The reviewer should prepare by obtaining monthly and the final report of the relevant period and the JEA.

#### **Hours**

The reviewer begins by determining the number of hours in each of the relevant priorities that are called for in the JEA. Those numbers are then compared to the final report for that JEA to determine whether the agency met its obligations in those areas. The reviewer will determine whether the agency exceeded, met, or failed to meet its obligations for Targeted Enforcement and Major Program activity.

The reviewer provides an informed assessment of whether or not the agency met its performance goal of hours in each of the areas of the JEA.

#### **Contacts**

The reviewer reviews the monthly and the final report to determine whether the agency recorded contacts according to the terms of the JEA. The reviewer provides an



assessment of whether or not the agency properly recorded contacts and thus met its performance goal.

### **Monthly and Final Reports**

The reviewer simply assesses whether the agency has provided monthly reports to OLE in the proper format and on time. In addition, the reviewer determines whether the agency filed a final report within 90 days of the completion of its obligations or the expiration of the JEA.

### **NON-PERSONNEL EXPENSES, PURCHASES, ETC.**

The reviewer is required to review records of the agency that were supplied to OLE to support its non-personnel expenses. The reviewer seeks to determine whether:

- the agency purchased what they agreed to purchase
- the agency provided invoices/documents to OLE within time frames
- the agency deviated from the JEA and whether the deviations were material

### **ACCURACY OF RECORDING AND REPORTING**

Maybe the most time-consuming task in the process review is the determination of whether the agency recorded and reported its CEP activities accurately. But, in terms of credibility, this may be the most crucial.

To determine the accuracy of recording and reporting, the reviewer must observe and inspect agency documents that support monthly and the final report. The reviewer must inquire of appropriate officials the means and the manner in which the records were created. And, the reviewer must test those documents for accuracy by examining other records of the agency that verify the accuracy of those reports.

### **STATEMENT OF ASSURANCE**

Based on the activities of the reviewer and the assessment of the information supplied and reviewed, the reviewer may provide a statement of assurance with regard to any of the areas that are found to be in substantial compliance with the JEA. Deviations or deficiencies should also be cited.

If appropriate, a reviewer may, in the performance review report, make a statement of assurance in a form similar to this:

**“Based on our procedures described herein we believe that XXXX’s has met its obligations as set forth in the JEA ending XX/XXXX and we may place reliance on the accuracy of the information supplied by the agency in our performance review strategy.”**

## **PART SEVEN: INTERNAL CONTROLS REVIEW**

### **INTERNAL CONTROL BACKGROUND**

The OLE is given the responsibility to manage the Cooperative Enforcement Program and to distribute Federal funds to an assortment of state and territorial marine conservation law enforcement agencies. OLE, as well as the officials of that agency, are entrusted with limited public resources and are responsible for complying with laws and regulations, meeting goals and objectives, safeguarding assets, and issuing reports that inform the Federal government and the public of the results of government activities. A good internal control system is necessary to assist state and territorial officials in meeting all their responsibilities.

Central to this program are the internal controls employed by OLE to insure that risks associated with the program are minimized. Those controls are dealt with in the Cooperative Enforcement Program Manual. But even more important are the internal controls of the agencies receiving CEP funds and the safeguards that are in place to insure that the CEP remains an effective and efficient source of funds.

This Part discusses the relevant parts of OLE's evaluation of the internal controls related to the CEP of agencies receiving CEP funds. OLE has an interest in only those internal policies and procedures that are directly related to the CEP and do not intend to dictate any requirements for unrelated internal controls.

### **DEFINITION**

Internal controls are essential to good government management and can be defined as activities (safeguards) that are in place to provide reasonable assurance that things are "going as planned."

More formally internal control is the process, affected by an agency's director, management, and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- effectiveness and efficiency of operations
- reliability of financial reporting, and
- compliance with applicable laws, regulations, and internal policies

Internal controls are tools that help management be effective and efficient while avoiding serious problems such as overspending, operational failure, and violations of laws, regulations, policies or procedures.

In other words, internal controls are the structure, policies and procedures put in place to provide reasonable assurance that management meets its objectives and fulfils its responsibilities.

These definitions reflect certain fundamental concepts:

- Internal control is a process. It is a means to an end, not an end in itself.
- Internal control is affected by people.
- Internal control can be expected to provide reasonable assurance, not absolute assurance, to an entity's management and OLE.
- Internal control is geared to the achievement of objectives.

## STANDARDS OF INTERNAL CONTROL

Internal control policies set forth some standards that agencies must establish and incorporate in an internal control structure:

- (1) **Cover all activities.** All state and territorial agencies receiving CEP funds should develop internal controls which cover all of their CEP functions, in general, and the key risk areas, in particular. Key risk areas include those core activities, the break down of which may render an agency unable to meet its obligations under a JEA.
- (2) **Regular Feature.** Control activities related to the CEP should be an integral part of the daily activities of the agency in such a manner that it becomes engrained in their ongoing processes rather than a haphazard effort to satisfy documentation requirements of the JEA.
- (3) **Separation of duties.** Specific CEP duties should be divided so that no one person has complete control over a key function or activity.
- (4) **Authorization or approval.** All transactions should be authorized before recording and execution.
- (5) **Custodial and security arrangements.** Responsibility for custody of assets needs to be separated from the related record keeping.
- (6) **Review and reconciliation.** Records should be examined and reconciled to regularly determine that transactions are properly processed, approved and booked.
- (7) **Physical controls.** Equipment, inventories, cash and other assets should be secured physically, counted periodically and compared with amounts shown on control records.

- (8) **Training and supervision.** Qualified, well-trained and supervised employees always help ensure that control processes function properly.
- (9) **Documentation.** Documented policies and procedures promote employee understanding of duties and help ensure continuity during employee absences or turnover. Therefore, policies and procedures (in the form of operations manuals and desks instructions) should exist in all agencies receiving CEP funds.
- (10) **Communication of importance of internal controls.** Setting standards of professional integrity and work ethics and ensuring that all levels of personnel in their agency know the importance of internal controls and understand their role in the internal controls process and be fully engaged in the process.

#### **KEY COMPONENTS OF INTERNAL CONTROL**

An effective state or territorial internal control system related to the CEP consists of the following interrelated components:

1. Management oversight and control environment,
2. Risk assessment and management,
3. Control activities and segregation of duties,
4. Accounting, information and communication, and
5. Self assessment and monitoring

#### **Control Environment**

The Control Environment is the foundation of all other components of internal control, providing discipline and structure, by setting the “tone at the top.” The success of control environment is judged according to the integrity, ethics, and competence of personnel; the organizational structure of the agency; oversight by the head of the agency and senior management; management’s philosophy and operating style; attention and direction provided by the head of the agency, especially in the area of audit and risk management; personnel policies and practices, and; external influences affecting operations and practices.

In order for internal controls to be effective, an appropriate control environment should demonstrate the following behaviors:

- The head of the agency is responsible for establishing policies and procedures that help ensure that the agency’s CEP obligations are met and the assets of the CEP are protected;
- The head of the agency insures that policies and procedures are periodically reviewed and ensures their compliance;

- The head of the agency determines whether there is an audit and control system in place to periodically test and monitor compliance with internal control policies/procedures and to correct noncompliance;
- Management information systems provide adequate information to the head of the agency and the head of the agency has access to CEP records, if the need arises;
- The head of the agency and management ensure communication of conduct or ethics policies and compliance thereof down the line within the organization.
- Personnel policies should establish and maintain up-to-date job descriptions for all employees.
- Personnel policies should assign authority and responsibility for managing the agency's CEP obligations in an appropriate manner.
- The agency's policies should ensure that employees are properly trained, especially in all aspects of the agency and the employee's role in the CEP program.
- The agency's policy should periodically review and document an employee's performance in the CEP.

### **Risk Management**

Every marine conservation law enforcement agency's activity with government grant programs involves some element of risk and this creates a need for the agency, as part of an internal control system, to identify risks to it achieving its objectives, assess them and take action to mitigate them. From a CEP internal control perspective, risk assessment involves identification and evaluation of factors, both internal and external, that could adversely affect performance, information and compliance objectives of the agency in meeting its CEP responsibilities.

Internal factors may include:

- complexity and scope of CEP operations,
- quality of personnel and employee turnover;
- objectives and goals of the JEA
- properly trained and equipped personnel
- clearly defined authority that is communicated to personnel
- clear supervision and direction of CEP missions
- oversight and review of activity reports
- proper assignment of activities to state or federal missions
- clear delineation of supervisory responsibilities
- accountability for accuracy of reporting

External factors may include:

- changing economic conditions and budgetary pressures
- continued capital projects to replace equipment
- source of funds for maintenance upkeep of equipment

- local government pressure and priorities
- changes in conservation priorities, fishing industry, etc.
- changes in OLE priorities and needs

Effective risk assessment and monitoring must include and involve managers at all levels.

For those risks that are controllable, the agency must assess whether to accept those risks or the extent to which it wishes to mitigate the risks through control procedures. For those risks that cannot be controlled, the agency must decide, for the present, whether to accept these risks or to withdraw from or reduce the level of CEP activity concerned.

### **Control Activities**

Control activities are the policies established by the head of the agency and procedures developed by the head of the agency and the management staff in order to be in compliance with these policies. Policies are usually adopted in order to control the various risks identified in the agency's risk assessment and in some cases, in order to be in conformance with various laws, rules and regulations.

Once policies are adopted, the agency must develop procedures that ensure that the policies are followed. These procedures must ensure that:

- proper separation of duties is observed.
- proper reporting and supervisory review is required
- proper direction given and understood
- records are properly maintained and reported as required
- periodic verifications are performed, and
- analytical reviews are performed

### **Information and Communication**

An agency's accounting, information, and communication systems ensure that risk-taking activities are within policy guidelines and that the systems are adequately tested and reviewed. They consist of methods and records established to identify, capture, and exchange information in a form and time frame that enables its personnel to carry out their responsibilities effectively, and to maintain accountability for its related CEP obligations and responsibilities.

The information system should produce reports that not only meet JEA reporting requirements, but that also contain operational, financial, and compliance-related information that make it possible to meet not only its CEP obligations but also to run and control the agency. Management should review the reports and use them in their decision-making and planning process.

The communications system must ensure that all personnel performing CEP activities fully understand and adhere to policies and procedures affecting their CEP duties and responsibilities and that other relevant information is reaching the appropriate personnel. In order for information to be useful, it must be relevant, reliable, timely, accessible, and provided in a consistent format.

On the one hand, the communications system imparts significant information throughout the agency, ensuring that personnel understand whatever has been communicated and on the other hand, communications systems should ensure that significant information is imparted to OLE and other state, local and federal shareholders.

Without effective communication, information is useless. Senior management must ensure effective paths of communication so that necessary information is reaching the appropriate personnel. This information relates both to the operational policies and procedures of the agency as well as information regarding the actual operational performance of the agency.

### **Self-Assessment and Monitoring**

An integral component of an internal control system is self-assessment and monitoring which includes:

- an internal process that periodically reviews internal controls and conducts internal audits
- reporting and correction of deviations of internal controls to the head of the agency or unit supervisor
- adequate documentation of management responses to audit or other control review findings so that it can be tracked for adequate follow-up

In addition to the agency's self-assessment and monitoring, the agency is required by the terms of the JEA to participate in OLE's On-Going Monitoring Program and in a performance review of the agency's participation in the CEP.

The frequency of monitoring CEP activities of an agency should be determined by considering the risks involved and the frequency and nature of changes occurring in the operating environment. Ongoing monitoring activities can offer the advantage of quickly detecting and correcting deficiencies in the system of internal control.

## **PERFORMANCE REVIEW OF AGENCY'S INTERNAL CONTROLS**

OLE has an interest in insuring that an agency receiving CEP funds uses those funds according to law, rules and regulations, and the literal terms of the JEA. The primary means of ensuring that that interest is addressed is through OLE's Performance Review Program. And, besides the processes of the JEA, a major portion of the review is the agency's internal controls, or lack thereof.

Where present, OLE will review and assess an agency's internal controls as they relate to the CEP only. It is not OLE's intention or prerogative to take a broader approach and review internal controls unrelated to the CEP.

Where specific CEP internal controls are not present, the reviewer may examine other internal controls that may be relevant for purposes of this review. The performance review report should address the lack of internal controls and contain a recommendation that such controls be adopted.

## **DOCUMENTATION AND EVALUATION OF INTERNAL CONTROLS**

Evaluating internal controls at the agency level is generally accomplished through observation, inquiry, and inspection. The performance reviewers, if internal controls are present, will observe, review, assess and evaluate the internal controls and document the results in the appropriate reporting.

The first inquiry is simple:

- Internal controls present?
- CEP-specific internal controls present?

If internal controls are present, at a minimum, the reviewer should seek to determine whether the agency's internal controls address the following areas:

- How often are policies reviewed for relevance/modification
- Hierarchy of reporting
- Relationship with OLE
- Transactions properly authorized and processed/reported
- Ensure that JEA data is valid and complete
- Authority of officers explained
- Terms of JEA
- Responsibilities, what is required explained
- How to report activity
- Separate activity reporting system
- Submission of data for compilation
- Separation of duties
- Authorization or approval
- Review and reconciliation of records
- Physical controls
- Training/entry-level and in-service on CEP topics/firearms/use of force
- CEP credentials/identification cards
- Supervision of JEA activity and review of JEA records
- Documentation of JEA activity



- Communication--To all levels/With OLE/Updated guidance from OLE/JEA requirements to operational staff
- Head is responsible for establishing policies
- CEP obligations met
- Periodic review of IC
- Audit/ongoing monitoring
- Code of conduct/ethics
- Job descriptions
- Assignment of authority and responsibility for management
- Employee's CEP performance
- Reporting and supervisory review
- Records maintenance and reporting
- Full understanding and adherence to policy
- Reporting to OLE
- Self assessment
- Internal review process

### **Checklist**

To assist in the assessment of an agency's internal controls, the reviewer should prepare a checklist that covers the above areas. A sample checklist is provided in the appendix.

### **Statement of Assurance**

Based on the activities of the reviewer and the assessment of the internal controls, the reviewer may provide a statement of assurance with regard to the value of the internal controls. Deviations or deficiencies should also be cited.

If appropriate, a reviewer may, in the performance review report, make a statement of assurance in a form similar to this:

**“Based on our procedures described herein we believe that XXXX's internal controls as they relate to the Cooperative Enforcement Program were functioning as designed and we may place reliance on such controls in our performance review strategy.”**

### **Obstacles to Implementation**

Perhaps the most difficult objective to assess is the last—whether there are obstacles to effective and efficient implementation of the JEA. This assessment requires the reviewer to form an opinion of whether any element of the performance review creates impediments to proper functioning of the processes of the CEP. The answer to the question should be based upon the evidence uncovered in the performance review and should fairly state the reviewer's opinion.

## PART EIGHT: DRAFT REPORT PREPARATION

### RESPONSIBILITY

Following the performance review, it is the responsibility of the performance reviewer supervisor to ensure that the draft and final reports are prepared. The responsibility to prepare these reports may be assumed by the supervisor or delegated to another team member. This part deals with preparation of the draft report.

### GENERAL REQUIREMENTS

**Cover Page**—Every draft performance review report should include a cover page. The style and format may vary but must include the following:

- \* Identity of reviewing agency, i.e., “U.S. Department of Commerce, National Marine Fisheries Service, Office of Law Enforcement.”
- \* Title of Document, i.e., “Draft Performance Review Report”
- \* Number, and Month and Year if review, i.e., “2009-01-AK/July 2009”
- \* Identity of agency being reviewed, i.e., “State of Alaska, Division of Wildlife Troopers”
- \* Identity of head of agency being reviewed, i.e., name and title
- \* Draft report warning language. The following should appear on the cover sheet of all draft reports:

*This is a draft report prepared by the National Marine Fisheries Service, Office of Law Enforcement. It is made available for review and comment to the organization responsible for the matter addressed. It contains preliminary conclusions, tentative recommendations, and other materials subject to revision. This draft should be safeguarded against unauthorized use or premature release of what may be incomplete information. Questions should be referred to the Office of Law Enforcement.*

### Format

The following general format should be followed:

**Introduction**—The Introduction includes

- \* Type of Engagement
- \* Date of Review
- \* Review Participants
- \* Authority for Review
- \* Organization and Activity Being Reviewed

**Statement of Objectives** - The review objectives are stated in the report and are the same ones that appeared in the detailed review program. It is acceptable to reword them and reorder them as required. However, care should be taken that their content is not changed. The objectives should always be clear and concise and should correspond to the Review Conclusions.

**Statement of Scope** - This section should describe the depth and coverage of calendar dates for the test work as well as a date for the evaluation of internal controls (if internal controls was evaluated), which would be the last day of the fieldwork. As applicable, relationships between the review universe and what was reviewed, geographic locations, kinds and sources of evidence should be explained. Also include any pertinent information that the reader would need to know, such as a departure from procedures, data limitations, scope impairments or clarification of work performed.

**Statement of Methodology** - The statement on methodology should clearly explain the evidence gathering and analysis techniques used to accomplish the review's objectives.

For example, a description of review procedures used and any sampling information would be included here.

**Statement of Reviewing Standards** - The report should include a statement that the review was made in accordance with generally accepted government reviewing standards and disclose when applicable standards were not followed. The review should conform to the Standards of the Comptroller General of the United States, 2003 Revision. The statement of conformity refers to the applicable standards that the reviewers should have followed during the review. Any departure of these standards should also be disclosed.

**Review Conclusions** - The reviewer must conclude on the stated review objectives in the order in which they appeared in the report. The reviewer should conclude in the negative or affirmative on each objective. Qualified statements on review conclusions are not recommended.

**Review Activities** – The draft report should contain a narrative description of the activities that occurred during the performance review, to include dates and locations of review activity.

**Findings and Recommendations** – Each finding should correspond to an objective listed earlier and should be a declarative statement of the review team's findings, such as "We believe that AWT has met its performance goals" or "Reporting of Equipment Purchases Could Be Improved." Each finding should be supported by a set of facts. These are the conditions actually observed or that were the results of tests that were performed by the reviewer. Enough detail

should be given so that an uninformed reader will be able to understand what is being discussed. For complex issues, the background information and facts could be quite lengthy.

**Recommendations** - Set out in simple, yet specific language, a remedy that management can follow to effectively correct the condition. In multiple part actions, a numbered step-by-step solution assists in breaking down the recommendation into an easily understandable process. Emphasize that solutions other than those presented may be acceptable if it minimizes the condition stated in the finding. In some situations the necessary actions concerning our recommendations will be implemented before the final report is issued. Finally, always give management a business reason for implementing recommendations.

**State/Territory Responses** - All recommendations will be followed by the state's/territory's response. Responses will be included verbatim.

**Reviewer's Comments** - These comments are used as necessary to evaluate the quality of the state/territory's written responses.

**General Comments** - This section is reserved for points of interest that are of lesser magnitude than findings, but of interest to management. Written responses from the state/territory are not required for general comment items.

### **Reviewer's Submission and Approval**

The draft report should conclude with a signature line for the reviewer submitting the report and an approval line and signature line for the Director.

## **TIMING**

### **Work Flow Reminder**

Each work file contains a work flow reminder that establishes time limits for the preparation of the draft and final reports.

### **Preparation of Draft Report**

Preparation of the draft report should begin as soon as possible after returning to the office.

### **First Draft Report**

The first draft report should be completed and submitted to the Assistant Director no later than 14 days following return to the office. Extensions may be granted by the Assistant Director, but should not exceed 30 days from the completion of the review.

All corrections and modifications must be completed timely.

### **Subsequent Draft Reports**

All subsequent draft reports should be edited and resubmitted for review within 3 days of receiving additional comments for correction or modification.

### **Final Draft Report—To Director**

After all reviews and corrections of the Assistant Director have been made the draft report must be submitted to the Director for his comments or suggestions. Unless otherwise extended, this should be accomplished within 30 days of completion of the review, but no later than 45 days, if extended by the Assistant Director. Corrective measures at the direction of the Director should be accomplished within 2 days.

### **Final Draft Report—To Agency**

Following final approval of the draft report by the Assistant Director and Director, the final draft report must be sent to the Agency for review and comment. This should be accomplished no later than 45 days following the review, or no later than 60 days if extended for any reason.

### **Return of Draft Report with Agency Comments**

The draft report must be sent to the Agency for review and comment. This should be accomplished no later than 60 days after completion, but no more than 90 days if extended.

Action	Days to Action	Date Due	Extended Date Due
Review Completed	[Insert Date]		
First Draft	14		
First Draft to Director	30-45		
Final Draft to Agency	45-60		
Agency Comments	60-90		
Final Report	90-120		

## **STYLE & ATTRIBUTES**

The draft and final performance review report must be written in a neutral tone and flawless in its accuracy, logic, clarity, grammar and spelling. It is the only output of the reviewer's professional efforts, which is seen by outsiders.

**Accuracy** - Reports must be completely and scrupulously factual; every condition and recommendation must be based on evidence that is supportable in the work file. The evidence must be sufficient to support the findings and recommendations and at the same time, be in agreement with the stated objectives of the review.

Conditions reported must be well documented and the logic of the report inescapable. Statement of fact must carry the assurance that the reviewer personally observed or validated (by testing) the fact(s). Conditions that were not personally observed by the reviewer but were documented through interviews with state/territory personal should be prefaced with the statement: "It was represented to us . . ."

To be accurate, a recommendation must be of sufficient magnitude so that it fits into the mosaic of the overall function or agency. Don't be petty or nit-pick. Recommendations should generally be in the report from the most to least important or some other logical order such as by area or function reviewed or respondent.

**Clarity** - Means putting into the mind of the reader what was in the mind of the reviewer when the report was written. The report must be clear enough that someone independent of the review can read and understand it.

Some impediments to clarity include:

- Dull and tedious writing styles.
- Poorly structured reports, recommendations, paragraphs or sentences.
- Technical terms and jargon.
- Making recommendations without properly setting the stage for them.
- Long discussions of technical matters.

**Conciseness** - This means cutting out what is superfluous. Eliminate what is irrelevant and immaterial. Words, sentences and paragraphs that do not directly support the central theme should be eliminated.

**Tone** - The report should be courteous and factual. Consideration should be given to the report's effect upon subordinate personnel and management. It should not be petty, but should sound like the voice of management. The use of slang or high-sounding language should be avoided; when two words of equal meaning exist, use the simpler or more common one.

The report should be calm, objective, thoughtful and dispassionate. Words with even the slightest negative connotation should not be used. Always use the most direct, factual and objective word or phrase possible.

**Grammar and Spelling** - All reviewers are expected to use acceptable grammar, sentence structure and context. Additionally, spelling should be accurate. The report should be written by the reviewer in a form that would be acceptable for immediate release.

**Printing of Draft Report** – The draft report should be printed with the word “Draft” superimposed over the text of the document on each page. This does not include the draft final report sent to the agency for comment.

## **PART NINE: FINAL PERFORMANCE REVIEW REPORT**

### **GENERALLY**

**Timing.** - Within 90 days, but not less than 120 days, following the completion of the performance review, OLE should issue its final performance review report.

**Additional Comments.**-The final report should include any comments to the draft report by the agency and any additional comments by the reviewer.

**Cover Letter**-The final performance review report should be transmitted to the agency head with a transmittal letter from the Director, OLE. A sample is included in the appendix.

**Freedom of Information Act** – The cover page of the document should remove the “draft report” language and insert the words, “Public Release,” indicating that the final report is a public document and may be released by either party to the public.

### **ACCESSIBILITY OF REPORT**

The final performance review report is a public record and either party may release the document to anyone requesting a copy.



## PART TEN: FOLLOW-UP

Where the final performance review report contains recommendations for changes in the manner in which the agency administers the CEP, appropriate follow-up should occur.

### MINOR CORRECTIVE MEASURES

Where the corrective measures are minor, follow-up may be done by the National CEP Coordinator in an informal fashion. Notation should be made of the corrections in the appropriate file.

### CORRECTIVE ACTION PLAN (CAP)

Where the corrective measures are more complex and require a measure of scrutiny, OLE may seek a Corrective Action Plan (CAP) to accomplish those corrections.

The SAC and the state or territory negotiate the terms of the CAP through written and oral discussions of the reviewer's findings and recommendations, the state or territory's comments, the reviewer's response, and OLE's determinations.

The SAC, in coordination with the state or territory and the National CEP Coordinator, prepares the CAP for the Director's approval.

#### Contents.

- The CAP addresses all review findings and recommendations that are identified in the final review report. The CAP contains, at a minimum:
  - **Reviewer's Findings and Recommendations.** The SAC identifies findings and recommendations that must be addressed in the CAP.
  - **Corrective Action.** This component identifies specific corrective action(s) to resolve the finding consistent with the SAC's findings and recommendations. It specifies necessary actions, target dates, and the person responsible for carrying out each action. It also explains how the state or territory should implement the corrective actions to resolve the issues.
  - **Resolution.** This component describes what documentation is required from the state or territory to verify implementation of the corrective action(s).

## **Review and Concurrence**

The Director, or his designee, will review the draft CAP and decide whether to concur or not to concur within 30 calendar days from the date the SAC forwards the CAP to him/her.

## **Implementation**

The corrective action for each finding has a specific deadline that is negotiated when the CAP is being developed. A state or territory may send a written request for additional time, with adequate justification, to the SAC. The SAC responds in writing to the state or territory within 10 working days of receipt of the state or territory's request.

## **Monitoring**

The SAC monitors, tracks, and documents implementation of the CAP and keeps the Director, through the National CEP Coordinator, informed of implementation progress.

## **PART ELEVEN: ONGOING MONITORING PROGRAM**

### **OVERVIEW**

In addition to periodic, formal CEP performance reviews, the OIG recommended in its 2003 report that OLE division management conduct periodic verifications of state/territory performance. The OIG describes this process as an “ongoing monitoring program.” (OMP) This process, they said, “is one type of internal control presented by [the Government Accounting Office] that would benefit the JEA program.”

Their specific recommendation was:

“NMFS should develop a process to verify state-reported activities and expenditures on an ongoing basis, and document its monitoring results for use in making annual funding decisions.”

The OIG offered some insight as to how they envisioned the OMP would work:

“For example, such reports could include the results from a randomly selected sample of vessel captains that are asked to corroborate state reported activities and a review of invoices and subsequent on-site confirmation that JEA capital equipment and other purchases are accounted for, reasonable, and benefit the intent of the program. This written narrative could also include instances where states did not fully cooperate with OLE agents on enforcement initiatives and any other pertinent details.”

### **POLICY**

It is the policy of the OLE that division special agents in charge will establish an OMP and conduct periodic, at least quarterly, random activities designed to verify state/territory compliance with the terms of any JEA agreement with the state/territory.

### **COMPONENTS**

Directive 174 requires that, effective immediately, each Field Enforcement Division is required to develop and implement a process that will monitor and verify state/territory-reported JEA activities and expenditures on a regular basis and document the results. The design and scope of the OMP is left to the discretion of the Special Agent-in-Charge, but will, at a minimum, include the following components:

1. At least one quarterly inspection of each State/Territorial JEA partner’s JEA records.

2. Random comparison of reported JEA work with agency-maintained documentary support, and where possible and appropriate, interviews of regulated persons and businesses to verify state/territory reported activities.
3. Review of invoices for purchase of equipment
4. On-site confirmation that JEA capital equipment and other purchases are accounted for, reasonable, and benefit the CEP.
5. Instances where states/territories did not fully cooperate with OLE agents on enforcement initiatives.
6. A comparison of work performed to work planned in the Operations Plan covering the time period and activity.
7. Any other pertinent details.
8. Written reports of the results to Headquarters, to include any corrective action taken.

## APPENDIX

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**SAMPLE ENGAGEMENT LETTER**

Name  
State/U.S. Territorial Agency  
Office Address  
City, State 00000

Dear [ ],

Since [ENTER YEAR], your agency and mine, The National Marine Fisheries Service Office for Law Enforcement (NMFS/OLE) have collaborated successfully through the Cooperative Enforcement Program to increase federal maritime conservation enforcement within your jurisdiction. We have enjoyed [#] years of mutually beneficial work and relations. This [PERIOD] we ask your assistance in completing a Performance Review on your agency as relates to the [YEAR] Joint Enforcement Agreement.

I would like to first say that this review was not conceived of, nor is it being performed out of any doubt or concern regarding the effectiveness of your program, but instead is being conducted as part of a nation wide system of planned inspections and careful evaluation of the program. In doing this, I hope to ensure that the implementation of the Cooperative Enforcement Program thus far is proving an effective use of federal government funds and state time and resources that we conceived of at the programs' inception. We are hoping these reviews will supply us with useful and pertinent information on how we can make Cooperative Enforcement more effective, efficient, and fluid, benefiting all parties involved; state and federal governments alike.

You will be contacted shortly by the National Cooperative Enforcement Program Coordinator, Special Agent Michael Fry, regarding this performance review. He will supply you with further information regarding materials and documents to be made available during this review and will also work with you to find a convenient date for this review to take place. If you have any questions or concerns please feel free to contact Special Agent Fry directly at (301) 427-2300, or contact your Division Cooperative Enforcement Program Manager, [NAME] at [PHONE]. I hope that this review will allow us to find and implement more effective and efficient ways of together protecting our nations living marine resources.

Sincerely,

Dale J. Jones  
Director  
National Marine Fisheries Service  
Office for Law Enforcement

cc: OLE SAC

**SAMPLE FOLLOW-UP ENGAGEMENT LETTER**

**Name**  
**Address**

RE: Performance Review

Dear [ ],  
:

This letter will serve as the follow-up to a recent letter you received from Director Dale Jones, National Marine Fisheries Service, Office for Law Enforcement, regarding a performance review of [ ]' JEA #[ ].

With your assistance, the review will take place during the week of [ ]. The review will cover JEA#[ ] signed by [ ] and Director Jones on [ ]. Myself and [ ], Office for Law Enforcement, [ ] Division, will be conducting the review. We will require assistance from you and your staff to accomplish this review. I would appreciate it if you would provide me with the name and telephone number of a person from your staff that might be able to assist us through this process. With your permission, I will coordinate the review with this individual.

There will be five components to our review—1) performance goals, 2) purchases, 3) accuracy of reporting, 4) internal controls/policy/procedure, and, 5) field inspections/site visit. We will be conducting on-site reviews and testing of documents related to the first four components. In addition, we would like to visit sites where JEA equipment might be located and where JEA work is being performed, and to accompany members of the [ ] on a scheduled JEA patrol or other JEA activity to observe how JEA work is conducted and reported.

Thank you in advance for your cooperation. I would like to confirm what Director Jones has previously stated, this performance review is part of a planned national review of all Joint Enforcement Agreements. That your agency was chosen should not be taken as any indication of doubt or concern. I am confident that the performance review will assist in better shaping the Cooperative Enforcement Program, and JEAs in particular, to better meet [ ] marine conservation enforcement needs.

Please feel free to contact me at (301) 427-2300, or [Michael.fry@noaa.gov](mailto:Michael.fry@noaa.gov), if you have any questions.

Sincerely,

Michael A. Fry  
Special Agent  
National Cooperative Enforcement Program Coordinator

Cc: Dale Jones, Director, OLE  
[ ], SAC  
[ ], Deputy SAC  
[ ], Deputy SAC  
[ ], JEA Manager



**Sample Self-Assessment Checklist**

***SELF-ASSESSMENT CHECKLIST  
OLE PERFORMANCE REVIEW PROGRAM***

The Self-Assessment Checklist is designed to be completed by the agency to be reviewed. It is intended to prepare a state/territorial marine conservation law enforcement agency for a performance review of its activities under the Cooperative Enforcement Program and a particular Joint Enforcement Agreement. This checklist does not include all of the questions that may be asked during the review.

The first part deals with the actual terms of the \_\_\_\_\_ Joint Enforcement Agreement. The OLE will be reviewing those records and examining the agency's supporting documentation.

The internal controls checklist refers to are those that are considered best practices by the Office of Law Enforcement.

The third part of the performance review, the field work, is not included in the self-assessment. Those activities are evaluated independently following examination of the agencies records and internal controls.

A "yes" answer requires no further action on the part of the agency. A "No" answer to any question may require further action or explanation during the performance review and may result in an unfavorable finding during the review.

<b>PART ONE—PROCESS REVIEW</b>		
<b>Questions That May Be Asked</b>	<b>YES or NO</b>	<b>Implication of the Answer</b>
<b>Hours</b>		
Did your agency complete the required number of hours called for in the JEA?		If yes, no action. If no, the agency should be prepared to explain.
Does the agency have complete records to support the hours reported?		If yes, no action. If no, the agency should be prepared to produce adequate records.
<b>Contacts</b>		
Did your agency record contacts according to the JEA?		If yes, no action. If no, the agency should be prepared to explain.
		If yes, no action.

Does your agency have forms that collect all required information?		If no, the agency should be prepared to explain how information is collected.
<b>Monthly Report</b>		
Did your agency file all required monthly reports?		If yes, no action. If no, the agency should be prepared to explain.
Were monthly reports filed timely?		If yes, no action. If no, the agency should be prepared to explain.
<b>Final Report</b>		
Did your agency file a final/annual report?		If yes, no action. If no, the agency should be prepared to explain.
Was the report filed by the due date?		If yes, no action. If no, the agency should be prepared to explain.
<b>Non-Personnel Expenses, Purchase, etc.</b>		
Did your agency purchase what they agreed to purchase?		If yes, no action. If no, the agency should be prepared to explain.
Did your agency provide invoices/documents to OLE?		If yes, no action. If no, the agency should be prepared to explain.
<b>Accuracy of Records and Reports</b>		
Does the agency have JEA-specific reports?		If yes, no action. If no, the agency should be prepared to explain.
Does the agency require supervisory review of officer's activity reports?		If yes, no action. If no, the agency should be prepared to explain.

## PART TWO—INTERNAL CONTROLS

Questions That May be Asked	YES OR NO	Implication of Answer
Does your agency have internal controls in place?		If yes, no action. If no, the agency should be prepared to explain how management of JEA is accomplished
		If yes, no action.

Does your agency have CEP-specific internal controls in place?		If no, the agency should be prepared to explain.
Do agency policies convey leadership's commitment to ethics and moral conduct?		If yes, no action. If no, the agency should be prepared to explain.
Do agency policies hold employees responsible for understanding and adhering to policies?		If yes, no action. If no, the agency should be prepared to explain.
Do agency policies provide clear separation of duties of employees?		If yes, no action. If no, the agency should be prepared to explain how duties are assigned.
Do agency policies provide minimum standards for entry level and in-service training?		If yes, no action. If no, the agency should be prepared to explain.
Do agency policies contain clear guidance on the agency's use of force policy?		If yes, no action. If no, the agency should be prepared to explain.
Do agency policies contain clear guidance on the agency's firearms policy?		If yes, no action. If no, the agency should be prepared to explain.
Do agency policies require that policies and procedures are communicated to all levels?		If yes, no action. If no, the agency should be prepared to explain.
Do agency policies contain any procedures for conducting internal reviews of internal controls?		If yes, no action. If no, the agency should be prepared to explain.
<b>CEP-SPECIFIC INTERNAL CONTROLS</b>		
Do agency policies explain the CEP and the agency's duties, obligations, and responsibilities?		If yes, no action. If no, the agency should be prepared to explain how employees understand their role.
Do agency policies clearly explain an officer's authority for CEP work?		If yes, no action. If no, the agency should be prepared to explain how an officer knows what authority they have under JEA.
Do agency policies provide minimum standards for entry level and in-service training on the CEP?		If yes, no action. If no, the agency should be prepared to explain what CEP training officers receive.
Do agency policies provide clear guidance on the use of force when performing JEA activity?		If yes, no action. If no, the agency should be prepared to explain.
Do agency policies provide clear guidance on		If yes, no action.

carrying and using firearms when performing JEA activity?		If no, the agency should be prepared to explain.
Do agency policies contain guidance on identification cards when performing JEA activity?		If yes, no action. If no, the agency should be prepared to explain what identification officers have.
Do agency policies require separate daily activity reporting for JEA activity?		If yes, no action. If no, the agency should be prepared to explain how daily activities are logged.
Do agency policies explain how an officer should report JEA activity?		If yes, no action. If no, the agency should be prepared to explain how JEA activity is logged.
Do agency policies contain clear guidance on the manner of submitting JEA activity data for compilation?		If yes, no action. If no, the agency should be prepared to explain how data is submitted.
Do agency policies provide clear guidance on the separation of an officer's duties when performing JEA activity and agency enforcement activity?		If yes, no action. If no, the agency should be prepared to explain.
Do agency policies require specific authorization or approval of JEA activity?		If yes, no action. If no, the agency should be prepared to explain who assigns JEA work.
Do agency policies contain safeguards that ensure that JEA data is valid and complete?		If yes, no action. If no, the agency should be prepared to explain how data is tested.
Do agency policies contain safeguards that ensure that purchases made with CEP funds are properly authorized and approved?		If yes, no action. If no, the agency should be prepared to explain purchasing procedure.
Do agency policies require supervisory review of JEA activity prior to submission?		If yes, no action. If no, the agency should be prepared to explain review process.
Do agency policies require communication of JEA requirements to the operational staff?		If yes, no action. If no, the agency should be prepared to explain such information is communicated.
Does the agency have a policy of conducting periodic reviews or audits of JEA-related reports and information?		If yes, no action. If no, the agency should be prepared to explain how JEA

		reports are verified.
Does the agency submit monthly reports to OLE using the OLE-supplied spreadsheets/reporting system?		If yes, no action. If no, the agency should be prepared to explain how that information is supplied.
Do agency policies require planning of JEA activity?		If yes, no action. If no, the agency should be prepared to explain how JEA activity is planned.

**Sample Performance Review Plan**  
**(Actual Plan May Vary)**



**NATIONAL MARINE FISHERIES  
OFFICE FOR LAW ENFORCEMENT  
COOPERATIVE ENFORCEMENT PROGRAM**

-  
**#2009-01-[XX]**  
**[STATE/TERRITORY]**

**PERFORMANCE REVIEW PLAN**

**I. PERFORMANCE REVIEW SCHEDULE**

Performance Review is scheduled for [dates]

**II. PERFORMANCE REVIEWERS**

Supervisor: [Identity]

Regional JEA: [Identity]

Consultant: [Identity]

**III. COMPONENTS**

- A. Performance Goals**
- B. Purchases**
- C. Accuracy of Reporting**
- D. Internal Controls/Policy/Procedures**
- E. Field Inspection/Site Visits**

**IV. RESPONSIBILITIES**

- A. [Identity]
  - 1. Performance goals
  - 2. Purchases

3. Reporting
4. Internal Controls
5. Field Work
6. Report writing, unless assigned to other member

- B. [Identity]
1. Consult as needed
  2. Other duties as assigned
  3. [List other specific duties]

- C. [Identity]
1. Consult as needed
  2. Other duties as needed
  3. [List other specific duties]

## **V. BACKGROUND**

The Law Enforcement Division is the marine law enforcement arm of the [name of agency]. With an authorized strength of [number], the [agency] provides a variety of services in addition to conservation and boating law enforcement duties throughout the State of [name]. [Agency] has [number] near shore vessels, [number] off shore vessels, and [number] aircraft to support this mission. [Agency] patrols [number] miles of tidal shoreline covering [number] square miles.

For purposes of this review, we will be reviewing JEA [number and year].

## **VI. STATISTICS**

<u>JEA 1</u>	<u>JEA 2</u>	<u>JEA 3</u>	<u>JEA 4</u>	<u>JEA 5</u>	<u>JEA 6</u>
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## **VII. SUMMARY OF JEA BEING REVIEWED: JEA [number and year]**

The JEA [number] between NMFS and [agency] was executed on [date]. The agreement was a one-year [two or three-year] agreement requiring a total funding of [amount]. The agreement was amended once, on [date], the agreement was extended until [date]. [Agency] completed its obligations on [date].

### **Direct Operations**

[Agency] agreed to provide hours of enforcement services to be performed during [time period]. The hours were broken down this way:

[hours] Dockside

[hours] Mid-Range Patrol Vessel

[hours] Large Off-shore Vessel

## **Direct Purchases**

[Agency] planned no purchases of equipment, services or property.

## **Other JEA Terms**

### **Contacts**

[Agency] agreed to log all contacts made with fishing vessels. The form used would include the date, location, vessel name and/or registration/documentation number, vessel captain, and the number of persons on board.

### **Community Outreach**

[Agency] agreed to incorporate JEA funding to develop and distribute promotional and educational material for their community oriented policing project. The Operations Plan, however, did not allocate any JEA hours to this obligation.

### **Performance Measures**

[Agency] agreed to provide monthly summaries of their vessel and dockside patrol hour activities. In addition, [Agency] agreed to provide an annual report at the conclusion of the JEA.

## **VIII. PLANNING**

1. Prepare and send an entrance letter to applicable personnel in the area under review.
2. Conduct an in-house review of the following:
  - a. Any internal policy and procedures related to JEA work and reporting;
  - b. Copies of reports, time sheets, spreadsheets, or any other document indicating how JEA work was tracked, reported, and billed to JEA;
  - c. Copies of purchase orders or vouchers indicating purchases or services purchased; and
  - d. Any prior review of JEA[number] funds conducted by any other entity.
3. Schedule and hold an entrance conference with the state/territory. Obtain the name of the departmental contact person and secure a place from which to conduct the fieldwork portion of the review.

## **IX. REVIEW SCOPE**

The review period covers personnel and purchasing activity that occurred from [dates]. Source documentation will be obtained from files maintained in the agency. Original



records as well as copies, including microfiche, will be used as evidence and verified through physical examination.

## **X. REVIEW OBJECTIVES**

This review will be conducted in accordance with the OLE Performance Review Guide. The objectives of this review are to:

1. Determine whether performance goals were met;
2. Determine whether non-personnel expenses, purchases, etc., were properly documented;
3. Determine whether JEA work was accurately and completely recorded and reported;
4. Determine whether the agency's internal controls related to the CEP are adequate.
5. Determine whether there are obstacles to the effective and efficient implementation of the JEA

## **XI. PROJECTED ITINERARY**

### **DAY ONE--TRAVEL DAY/MEET WITH DIVISION REP**

1. Review Plan
2. Prepare discussion points for meeting DSAC
3. Confirm arrival, if appropriate

#### **Meet with DSAC/JEA Rep.**

1. Discuss review plan with DSAC and JEA rep.
2. Briefing on relationship with state partner
3. Briefing on status of JEA work
4. What were the goals of the JEA?
5. What priorities was JEA focused on?
6. How were these measured for compliance/non-compliance?
7. How was enforcement impact measured/evaluated?
8. Examine reporting from state

9. Examine any other relevant documents from state
10. Discuss problems or unresolved issues related to JEA
11. Discuss and assign work for on-site and off-site audit/inspection

**DAY TWO/THREE—On-site (Financial/Reporting/Documentation/Verification)**

1. Meet with state representatives, preferably person in charge and JEA official
2. Review current JEA/Ops Plan terms
  - priorities
  - work promised
  - work completed
  - equipment purchases
3. Discuss how implementation is going/has gone
4. Any problems with implementation? Purchase? Reporting? Meeting NMFS/OLE's needs?
5. Use checklist to insure that topics are covered
6. Make copies or ask for copies of any documents not already in possession
7. Verify work promised and performed and equipment purchased
8. Performance Measures
  - \* hours
  - \* contacts
  - \* monthly/final reports
9. Review purchases
  - Invoices, purchase orders
  - Status of equipment,
  - Location(s) of equipment,
  - Assigned to specific individuals
  - Identity of individuals assigned equipment
  - Visual verification (if possible)
  - Does the equipment equate to what was sought in JEA?
  - Value (does the item assist the state/federal mission?)
  - Get an idea of future needs.
10. Reporting
  - Verify JEA terms
  - How was time documented?

- Records support time claimed?
  - On-shore v. at sea hours
  - Dockside inspections
  - Boarding vessels
  - Enforcement actions
  - Citations (state v. federal)
  - Is reporting accurate and timely filed?
  - Are any reports missing? Why?
  - Progress reports sent to NMFS/OLE?
  - Software being used?
  - Method of reporting?
  - How are numbers verified?
11. Reporting
- \* test for accuracy
  - \* obtain copies
12. Internal controls
- \* use checklist
  - \* obtain copies
13. Confirm transportation, escorts for inspections on Day 3.

**DAY THREE/FOUR—Off-Site/Patrol Activity(Visuals of equipment/inspection of vehicles, vessels, equipment, logs, if appropriate)**

1. Travel to off-site location(s)
2. Use Checklist--Inspect vehicle(s), (if practical)
  - Documents (compare to what was requested)
  - Year, make, model
  - Equipment/missing equipment
  - date of purchase
  - mileage
  - condition
  - excessive wear
  - damage
  - relationship to priorities?
  - Planned lifetime?
  - Replacement or disposal contemplated
3. Determine how vehicle(s) is being used.
4. Records to support federal enforcement effort?

5. Run Sheets/activity sheets associated with person assigned?
6. What ratio of time of use state/federal?
7. How accurate is reporting of state/federal ratio?
8. How are hours tracked?
9. Office equipment
  - make sure there is a list of all equipment prior to going out,
  - inspect, compare to JEA request,
  - condition? Use in federal enforcement?
  - Relationship to priorities?
  - Planned lifetime?
  - Replacement or disposal contemplated?
  - Property numbers/Inventory control
10. Vessel(s)
  - JEA purchase?
  - When?
  - Identify JEA funding program and year, if appropriate
  - Ships log?
  - Does the log match other documents showing patrol time,
  - At sea inspections, boardings, etc.?
  - Condition?
  - Properly maintained?
  - Properly equipped?
  - Damage?
  - Time at sea compared to at dock time?
  - Evidence to connect to federal priorities?
  - Planned lifetime?
  - Replacement or disposal contemplated?
11. During inspection consider how effectively equipment is being used to support federal mission.
12. During inspection question how the equipment was used/is going to be used in the future
13. Schedule JEA observation
  - Participate in JEA activity
  - Observe work being done
  - Observe and note recording of activity
  - Compare actual with policy dictates

**DAY FIVE—State/DSAC Debriefing—TRAVEL DAY**

1. Meet with State/DSAC/JEA rep
2. Go over preliminary findings/impressions
3. Discuss any area in need of further review, explanation, follow-up
4. Who will complete additional tasks?
5. Make sure tasks are assigned, understood, and time for reply is negotiated

<b>XI. AFTER ACTION</b>
-------------------------

1. Prepare and send initial post-visit follow-up letter to state rep/JEA person
2. Thank for cooperation
3. Address any unresolved issue, if possible
4. Any questions not answered in the field, if possible
5. Any additional follow-up to address unresolved issues
6. Provide copy of executive summary of visit to state representative when final report finished
7. Prepare Executive Summary/briefing document/results of survey

**SAMPLE WORK FLOW REMINDER**

**WORK FLOW REMINDER**

Action	Days to Action	Date Due	Extended Date Due
Review Completed	[Insert Date]		
First Draft	14		
First Draft to Director	30-45		
Final Draft to Agency	45-60		
Agency Comments	60-90		
Final Report	90-120		

**SAMPLE PERFORMANCE REVIEW CHECKLIST**

**PERFORMANCE REVIEW CHECKLIST**

**PART ONE—PROCESS REVIEW**

Question	Source of Information	Yes	No	N/A
<b>Hours</b>				
Did the agency complete the required number of hours called for in the JEA?				
Does the agency have complete records to support the hours reported?				
Were the agency's records examined as part of the review?				
<b>Contacts</b>				
Did the agency record contacts according to the JEA?				
Does the agency have forms that collect all required information?				
Does the agency report its contacts on the OLE forms?				
<b>Monthly Report</b>				
Did the agency file all required monthly reports?				
Did the agency report using OLE forms/database?				
Were monthly reports filed timely?				
<b>Final Report</b>				
Did the agency file a final/annual report?				
Was the report filed by the due date?				
<b>Non-Personnel Expenses, Purchase, etc.</b>				
Did the agency purchase what they agreed to purchase?				
Did the agency provide invoices/documents to OLE?				
Were there any deviations from the planned purchases?				
<b>Accuracy of Records and Reports</b>				
Does the agency have reports that record an officer's daily activity?				
Do the activity reports match work reported?				

Do the activity reports accurately record JEA work?				
Does the agency have JEA-specific reports?				
Does the agency require supervisory review of officer's activity reports?				
Does the agency verify the accuracy of an officer's activity reports?				

## PART TWO—INTERNAL CONTROLS

Question	Source of Information	Yes	No	N/A
Does the agency have internal controls in place? <i>If yes, continue.</i>				
Does the agency have CEP-specific internal controls in place? <i>If no, answer as many questions as possible.</i>				
Do agency policies state that the head of the agency is responsible for establishing policy?				
Are agency policies reviewed periodically for relevance/modification?				
Do agency policies convey leadership's commitment to ethics and moral conduct?				
Do agency policies hold employees responsible for understanding and adhering to policies?				
Do agency policies contain clearly defined job descriptions?				
Do agency policies provide clear separation of duties of employees?				
Do agency policies contain clear guidance on what is required to authorize and/or approve actions, transactions, or activities?				
Do agency policies explain the agency's relationship to NOAA/OLE?				
Do agency policies assign authority and responsibility for managing the agency?				
Do agency policies contain a mechanism for evaluating an employee's performance?				
Do agency policies provide minimum standards for entry level and in-service training?				
Do agency policies contain clear guidance on the agency's use of force policy?				
Do agency policies contain clear guidance on the				



agency's firearms policy?				
Do agency policies contain a daily activity report for officers?				
Do agency policies require that policies and procedures are communicated to all levels?				
Do agency policies have clear policies and procedures for reporting activity?				
Do agency policies require supervisory review of reporting?				
Do agency policies contain procedures for records maintenance and retention?				
Do agency policies contain any procedures for conducting internal reviews of internal controls?				
<b>FOR CEP-SPECIFIC INTERNAL CONTROLS</b>				
Do agency policies explain the CEP and the agency's duties, obligations, and responsibilities?				
Do agency policies clearly explain an officer's authority for CEP work?				
Do agency policies clearly explain what the terms of the JEA are?				
Do agency policies clearly explain what an officer's duties and responsibilities are when performing JEA activity?				
Do agency policies provide minimum standards for entry level and in-service training on the CEP?				
Do agency policies provide clear guidance on the use of force when performing JEA activity?				
Do agency policies provide clear guidance on carrying and using firearms when performing JEA activity?				
Do agency policies contain guidance on identification cards when performing JEA activity?				
Do agency policies require separate daily activity reporting for JEA activity?				
Do agency policies explain how an officer should report JEA activity?				
Does the agency have a separate reporting system for JEA activity?				
Do agency policies contain clear guidance on the manner of submitting JEA activity data for compilation?				
Do agency policies provide clear guidance on the separation of an officer's duties when performing JEA activity and agency enforcement activity?				
Do agency policies require specific authorization or approval of JEA activity?				

Do agency policies contain safeguards that ensure that JEA data is valid and complete?				
Do agency policies contain safeguards that ensure that purchases made with CEP funds are properly authorized and approved?				
Do agency policies require separate and distinct reporting for JEA activity?				
Do agency policies require supervisory review of JEA activity prior to submission?				
Does the agency issue CEP identification cards and is there a policy that deals with CEP identification?				
Do agency policies require communication to all levels of information from OLE?				
Do agency policies require communication to all levels of updated guidance from OLE?				
Do agency policies require communication of JEA requirements to the operational staff?				
Do agency policies require effective communication with OLE?				
Does the agency have a policy of conducting periodic reviews or audits of JEA-related reports and information?				
Does the agency have a policy and procedure for reporting its activities to OLE?				
Does the agency submit monthly reports to OLE using the OLE-supplied spreadsheets/reporting system?				
Do agency policies require planning of JEA activity?				
Do agency policies require supervisory approval before engaging in JEA activity?				

## PART THREE—FIELD WORK

Question	Source of Information	Yes	No	N/A
<b>Equipment Inspections</b>				
Did the agency make equipment purchased with JEA funds available for inspection?				
Was JEA-funded equipment generally serviceable and in good repair?				
Is the equipment being utilized to support the JEA and/or marine conservation law enforcement?				

<b>Observation of Patrol/Activity</b>				
Prior to the patrol/activity, were officers familiar with the CEP?				
Prior to the patrol/activity, were the officers familiar with the agency's CEP policies and procedures?				
Prior to the patrol/activity, did the officers understand their CEP authority?				
Prior to the patrol/activity, did the officers understand the agency's documentation procedure for JEA activity?				
Prior to the patrol/activity, did the officers understand how JEA hours were recorded?				
Prior to the patrol/activity, was the patrol/activity previously scheduled JEA activity?				
Prior to the patrol/activity, did the officers know what the object of the patrol/activity was for the period?				
Were there an appropriate number of officers onboard for the mission?				
Were the officers properly equipped for the mission?				
Was the vessel properly equipped for the mission?				
Did each of the officers on board have a distinct role in the mission?				
Were they briefed on their role prior to the mission?				
Was the mission planned so that everyone knew where they were going and what they might encounter?				
Was the vessel captain briefed and familiar with the mission?				
Was the mission clear in scope and duration?				
Did the officer have the appropriate paperwork to record the activity?				
Did the officers complete an activity log for the mission?				
Did the vessel captain complete a vessel log of the mission?				
Did the crew seek out and attempt to make contact with fishing vessels in its AOR?				
Did the crew contact a reasonable number of vessels compare with the number of possible target vessels?				
Did the crew aggressively seek out target vessels?				
Did the officers complete contact reporting for each contact?				
Did the officers board vessels of high interest?				

Did the officers conduct un-boarded conversations with target vessel crew in appropriate circumstances?				
Did the officers interview the vessel captain?				
Did the officer interview crew members?				
Did the officers thoroughly inspect the vessel/business for violations?				
Did the officers inspect all appropriate permits?				
Did the officers inspect and check for working condition of VMS?				
Did the officers note appropriate violations?				
Did the officers take appropriate corrective action?				
Did the officers explain what they were doing and why?				
Did the patrol/activity last as long as planned?				
At the conclusion of the patrol/activity, did the officers complete the appropriate paperwork/reporting?				
Was the time spent on the patrol/activity productive in addressing JEA priorities?				

**SAMPLE TRANSMITTAL LETTER-FINAL REPORT**

[DATE]

[Head of Agency and Address]

**RE: [Agency]  
Cooperative Enforcement Program  
Performance Review OLE/CEP #[Number]**

Dear [name]:

Attached is the final report of the performance review of Joint Enforcement Agreement between your agency and the Office for Law Enforcement.

We thank you and your staff for their cooperation and assistance during this performance review.

Sincerely,

Dale Jones  
Director  
National Marine Fisheries Service  
Office for Law Enforcement

Attachments

Cc: [Name], Assistant Director  
[Name] SAC [Division]  
National CEP Manager